

I

THE PLEA

A. THE CHARGE.

Defendant agrees to plead guilty to Counts 1 and 2 of a Superceding Information in Criminal Case No. 07CR0449WQH charging defendant with:

Count 1

Defendant Carlos Cuevas Jr., did knowingly and intentionally commit offenses of distributing or importing a controlled substance; the offenses were part of a series of three or more violations committed by defendant over a definite period of time; defendant committed the violations together with five or more other persons; defendant acted as organizer, supervisor or manager of the five or more other persons; and defendant obtained substantial income or resources from the violations, within the Southern District of California, in violation of 21 U.S.C. § 848(a).

Count 2

Beginning on a date unknown and continuing up to and including February 28, 2007, within the Southern District of California, and elsewhere, defendant Carlos Cuevas Jr. did knowingly and intentionally agree and conspire with other persons known and unknown, to knowingly and willfully transfer and transmit funds to a place outside the United States from a place inside the United States with the intent to promote the carrying on of a specified unlawful activity, that is the importation and distribution of controlled substances, in violation of Title 18, United States Code Section 1956(a)(2)(A); all in violation of title 18, United States Code, Section 1956(h).

In addition, Defendant consents to the forfeiture allegations of the information pursuant to 21 U.S.C. §853 and 18 U.S.C. §982(a)(1). Defendant consents to the immediate entry of a preliminary order of forfeiture at the time of his plea and agrees that upon entry it will be final as to him. The forfeiture is more fully described in Section XI. "H," below.

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1        **B.    DISMISSAL OF REMAINING COUNTS**

2        In exchange for defendant's guilty plea and sentencing on Counts  
3 1 and 2 of the information, and his consent to the forfeiture  
4 allegations as identified above, and provided defendant fully complies  
5 with all terms of this plea agreement, the Government agrees to move  
6 to dismiss the remaining charges after defendant is sentenced.

7                                **II**

8                                **NATURE OF THE OFFENSE**

9        **A.    ELEMENTS EXPLAINED**

10       Defendant understands that the offense to which defendant is  
11 pleading guilty has the following elements:

12       **Count 1: Continuing Criminal Enterprise (CCE):**

- 13           1.    Defendant committed the offenses of distributing or  
14           importing a controlled substance;
- 15           2.    The offenses were part of a series of three or more  
16           violations committed by Defendant over a definite  
17           period of time, with the jury unanimously finding that  
18           the defendant committed each of at least three such  
19           violations;
- 20           3.    Defendant committed the violations together with five  
21           or more other persons;
- 22           4.    Defendant acted as an organizer, supervisor or manager  
23           of the five or more other persons; and
- 24           5.    Defendant obtained substantial income or resources  
25           from the violations.

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1       **Count 2: Conspiracy to Launder Monetary Instruments:**

- 2           1.   Beginning on a date unknown, and ending on or about  
3               February 28, 2007, within the Southern District of  
4               California, there was an agreement between two or more  
5               persons to launder monetary instruments;  
6           2.   Defendant became a member of the conspiracy knowing of  
7               at least one of its objects and intending to help  
8               accomplish it;  
9           3.   Defendant transported, transmitted, transferred and  
10           attempted to transport, transmit and transfer monetary  
11           instruments or funds from a place in the United States  
12           to or through a place outside the United States;  
13           4.   Defendant acted with the intent to promote the  
14           carrying on of a specified unlawful activity, to wit:  
15           importation and distribution of controlled substances.  
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17       **B.   ELEMENTS UNDERSTOOD AND ADMITTED - FACTUAL BASIS**

18       Defendant has fully discussed the facts of this case with defense  
19       counsel. Defendant has committed each of the elements of the crime,  
20       and admits that there is a factual basis for this guilty plea. The  
21       following facts are true and undisputed:

22       **Organization and Structure of the Cuevas Cell:**

- 23           1.   Co-defendant Victor Emilio Cazares-Gastellum (Cazares), aka  
24               Victor Emilio Cazares-Salazar, aka *Licenciado*, aka *Lic*, aka  
25               Viejo is the head of a large-scale Mexico-based drug  
26               distribution organization referred to hereinafter as the  
27               "Cazares Organization." The Cazares Organization is a  
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1 vertical drug trafficking organization responsible for  
2 purchasing and coordinating the importation of controlled  
3 substances as well as laundering the cash proceeds derived  
4 from its narcotics distribution activities back to Mexico.  
5 The Cazares Organization utilizes the resources of a  
6 narcotics transportation cell referred to hereinafter as  
7 the "Cuevas Cell." Co-defendant Jose Oscar Del Castillo-  
8 Gallardo (Castillo), aka *Chama*, aka *Shrek*, acted as a  
9 liaison between co-defendant Cazares (Castillo's father-in-  
10 law) and the Cuevas Cell.

- 11 2. Additionally, co-defendant Castillo personally coordinated  
12 the exportation of marijuana and multi-pound quantities of  
13 methamphetamine to the United States from Mexico through  
14 the assistance of the Cuevas Cell.
- 15 3. At all relevant times, including the periods alleged in the  
16 Second-Superceding Indictment, the Cuevas Cell constituted  
17 a group of individuals associated in fact, that is, an  
18 ongoing organization whose members functioned as a  
19 continuing unit to achieve their objectives, which included  
20 importing ton-quantities of controlled substances into the  
21 United States from Mexico supplied by the Cazares  
22 Organization, distributing controlled substances in the  
23 United States and transporting narcotics proceeds back into  
24 Mexico.
- 25 4. In or about 2000 and continuing up to at least February  
26 2007, defendant Carlos Cuevas Jr. (**CUEVAS**) was the leader  
27 of the Cuevas Cell. **CUEVAS**, co-defendant Cazares, co-  
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1 defendant Castillo and members of the Cuevas Cell all  
2 agreed to coordinate and implement the importation and  
3 distribution of multi-ton quantities of cocaine and  
4 marijuana, as well as multi-pound quantities of  
5 methamphetamine.

- 6 5. During CUEVAS' membership in both the Cazares Organization  
7 and the Cuevas Cell there was an informal, but strictly  
8 adhered to, hierarchy and chain-of-command. At the top of  
9 this hierarchy was co-defendant Cazares and co-defendant  
10 Castillo, both having ultimate decision-making authority.  
11 **CUEVAS** acted as a transportation coordinator for the  
12 Cazares Organization. Below **CUEVAS** was a group of second-  
13 tier leaders with whom he coordinated and oversaw their  
14 respective trafficking activities. Directly beneath **CUEVAS**  
15 was co-defendant Sergio Kaiser-Chavez (Kaiser), co-  
16 defendant Kaiser served as **CUEVAS**' second-in-command and  
17 his closest advisor. Co-defendant Kaiser was often  
18 responsible for the day-to-day operations and would also  
19 oversee the activities of other second-tier leaders. As  
20 discussed below, underneath co-defendant Kaiser there were  
21 several other second-tier leaders, referred to as load-car  
22 coordinators. Beneath the load-car coordinators came  
23 another level consisting mostly of those individuals hired  
24 to physically bring loads of narcotics into the United  
25 States from Mexico, referred to as load-car drivers.
- 26 6. In order to facilitate the conspiracy, **CUEVAS** purchased  
27 vehicles (referred to as load-cars) inside which he would  
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1 have the drugs secreted by other associates involved in the  
2 conspiracy, including, but not limited to, co-defendant  
3 Santos Fabian Rocha Salazar, aka *Pariente*, aka *Chino*, and  
4 co-defendant Carlos Valle-Castorena. Additionally, **CUEVAS**,  
5 as a means of concealing the drugs, would have the load-  
6 cars outfitted with secret compartments designed to hide  
7 the drugs.

- 8 7. In furtherance of the conspiracy, **CUEVAS** employed various  
9 individuals to manage the load-cars and the load-car  
10 drivers. The group of load-car coordinators for the Cuevas  
11 Cell and who worked for **CUEVAS** included, but were not  
12 limited to, the following: co-defendant Luis Eduardo  
13 Alvarez, aka *Lalo*, co-defendant Gilbert Vasquez-Chavez, aka  
14 *Vaca*, co-defendant Octavio Amezcua, aka *Russo*, co-defendant  
15 Arturo Guardado-Chaidez, and co-defendant Karlo Humberto  
16 Armenta-Ocampo. The load-car drivers, who in turn worked  
17 for the load-car coordinators, included, but were not  
18 limited to, co-defendant Tony Ramos, co-defendant Rosario  
19 Cardenas-Garcia, aka *Chayo*, co-defendant Arturo Flores  
20 Medina;

21 Activities Carried Out By Defendant And Other Members of The  
22 Cuevas Cell:

- 23 8. On or about February 7, 2000 through March 11, 2000,  
24 **CUEVAS**, in conjunction with members of the Cuevas Cell,  
25 arranged to import from Mexico and subsequently transport  
26 from Calexico, California, to homes in San Bernardino  
27 California, approximately 281 kilograms of marijuana. The  
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1 marijuana was transported in non-factory compartments in  
2 pickup truck load-vehicles through the Calexico West Port  
3 of Entry. The owner of the marijuana was also the owner of  
4 the 74 kilograms of cocaine that was seized on June 7,  
5 2006.

6 9. On or about March 2, 2006, **CUEVAS**, in conjunction with the  
7 Cuevas Cell, arranged to import from Mexico and  
8 subsequently transport from Calexico, California, to the  
9 Los Angeles area, approximately 207 kilograms of cocaine  
10 via three narcotic-laden vehicles. Cuevas was in charge of  
11 the Operation and co-defendant Alvarez was the load-car  
12 coordinator who facilitated the acquisition and use of the  
13 load-cars on **CUEVAS'** behalf. Co-defendant Alvarez also  
14 hired and was in charge of the load-car drivers used during  
15 this operation.

16 10. On or about April 28, 2006, **CUEVAS**, in conjunction with the  
17 Cuevas Cell, arranged to import from Mexico and  
18 subsequently transport from Calexico, California to the Los  
19 Angeles, California approximately 31 kilograms of cocaine.  
20 Co-defendant Miguel Angel Cardenas Garcia delivered the  
21 load-car to co-defendant Salazar, who packaged the cocaine  
22 for transportation on behalf of **Cuevas**. Co-defendant  
23 Rosario Garcia-Cardenas was tasked with driving the load-  
24 car for **Cuevas**.

25 11. On or about May 30, 2006, **CUEVAS** in conjunction with the  
26 Cuevas Cell, arranged to import from Mexico and  
27 subsequently transport approximately 74 kilograms of  
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1 marijuana. During the commission of this operation, **CUEVAS**  
2 was assisted by his second-in-command, co-defendant Kaiser,  
3 and a Cuevas Cell stash-house operator, co-defendant Gaspar  
4 Puentes Herrera, aka *Casper*. The marijuana-laden car,  
5 driven by Antonio Daniel Casarez, was stopped at the  
6 Calexico West Port of Entry and found to contain  
7 approximately 74 kilograms of marijuana.

8 12. On or about June 7, 2006, **CUEVAS** in conjunction with the  
9 Cuevas Cell, arranged to import from Mexico 74 Kilograms of  
10 Cocaine destined for Los Angeles, California. Co-  
11 defendants Kaiser and Jose Ismael Urquiza (a second-tier  
12 leader in the Cuevas Cell) oversaw the operational details  
13 and provided frequent progress reports to **CUEVAS**. Co-  
14 defendant Alvarez was the load-car coordinator who arranged  
15 for and coordinated with the load-car driver on **CUEVAS'**  
16 behalf. Co-defendant Vasquez acted as one of the load car  
17 drivers. The vehicles were first brought to co-defendant  
18 Valle, who loaded the cocaine into the vehicles on behalf  
19 of the Cuevas Cell. Co-defendant Vasquez then brought the  
20 cocaine into the United States to a residence in Cudahay,  
21 California. Co-defendant Urquiza followed the load-vehicle  
22 acting as a load-guide or lookout. A second car, driven by  
23 co-defendant Arturo Flores-Medina, brought cocaine to the  
24 same residence. Flores-Medina was also being supervised by  
25 co-defendant Alvarez.

26 13. On or about June 24, 2006, **CUEVAS** in conjunction with the  
27 Cuevas Cell, arranged to import 67 kilograms of marijuana  
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1 from Mexico into the United States. Co-defendant M. Garcia  
2 acted as the load-car coordinator for **Cuevas** and Jorge  
3 Garcia-Amezquita was tasked with driving the load-car (a  
4 1999 Ford Expedition) across the border. Further, on July  
5 4, 2006, **CUEVAS** discussed with co-defendant Castillo the  
6 seizure of this drug-laden Ford Expedition containing  
7 approximately 65 kilograms of cocaine.

8 14. On or about July 8, 2006, **CUEVAS** in conjunction with the  
9 Cuevas Cell, arranged to import 64 kilograms of marijuana  
10 from Mexico into the United States. The load-car driver  
11 tasked with importing the drugs was Miguel Jimenez. On or  
12 about July 8, 2006, subsequent to Jimenez' arrest, **CUEVAS**  
13 spoke with co-defendant Kaiser discussing the seizure of  
14 the marijuana.

15 15. On or about July 9, 2006, **Cuevas** in conjunction with the  
16 Cuevas Cell, arranged for the transportation of \$699,971.00  
17 in narcotics proceeds from Los Angeles, California to  
18 Mexico. Co-defendant Victor Emilio Cazares-Gastellum hired  
19 the Cuevas Cell to transport the narcotic proceeds. Co-  
20 defendant Vasquez was tasked by **Cuevas** and Kaiser with  
21 driving the load-car containing the narcotics proceeds.  
22 Co-defendant Vasquez, after his arrest, informed co-  
23 defendant Kaiser that the vehicle had been impounded by law  
24 enforcement. A series of calls occurred between **CUEVAS** and  
25 co-defendant Valle discussing the hidden compartments in  
26 the vehicle. On or about July 10, 2006, Kaiser informed  
27 **CUEVAS** that law enforcement had discovered the narcotics  
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1 proceeds. The proceeds were destined for co-defendant  
2 Victor Emilio Cazares-Gastellum and were to be used to  
3 promote the Organization's narcotic trafficking activities.

4 16. On or about August 8, 2006, **CUEVAS** in conjunction with the  
5 Cuevas Cell, arranged to import from Mexico into the United  
6 States 51 kilograms of cocaine. Ignacio Vasquez Beltran  
7 acted as the load-car driver. Vasquez Beltran drove the  
8 cocaine-laden vehicle from Mexico into the United States at  
9 the Calexico, California, West Port of Entry. There, the  
10 vehicle was searched and the 51 kilograms of cocaine was  
11 located. On or about August 12, 2006, **CUEVAS** discussed the  
12 seizure with co-defendants Kaiser and Urquiza.  
13 Specifically, **Cuevas** and Kaiser discussed problems they had  
14 accessing the vehicle's hidden compartment.

15 17. On or about August 28, 2006, **CUEVAS** and co-defendant  
16 Kaiser, in conjunction with the Cuevas Cell, arranged to  
17 import from Mexico and subsequently transport from  
18 Calexico, California to the Los Angeles, California area,  
19 approximately 45 kilograms of cocaine. Although **CUEVAS**  
20 oversaw the operation, co-defendant Kaiser coordinated the  
21 operational details. **CUEVAS** arranged for co-defendant  
22 Valle to package and load the cocaine into the load  
23 vehicle. **Kaiser** arranged for co-defendant Roberto Lopez to  
24 act as a guide/look-out for the load-car. Co-defendant  
25 Kaiser coordinated with co-defendant Alvarez, who acted as  
26 the load-car coordinator. Lewis Andrew Garcia, III, was  
27 tasked with driving the load-car across the border and to  
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1 Los Angeles, California. The vehicle, however, was stopped  
2 at the Calexico, California, West Port of Entry upon its  
3 entry from Mexico and was found to contain approximately 45  
4 kilograms of cocaine.

5 18. On or about September 15, 2006, **CUEVAS**, in conjunction with  
6 the Cuevas Cell, arranged to import from Mexico into the  
7 United States approximately 85 pounds of marijuana. Co-  
8 defendant Guardado acted as the load-car coordinator and  
9 also packaged the marijuana and placed it into the vehicle.  
10 The marijuana was brought across the border in a vehicle  
11 and delivered to a stash-house operated by co-defendant  
12 Herrera, aka Casper. Throughout the course of this  
13 incident, **Cuevas** would call co-defendant Castillo and  
14 report to him on the progress of the drug activity.

15 19. On or about October 6, 2006, **CUEVAS** in conjunction with the  
16 Cuevas Cell, arranged to import from Mexico to the United  
17 States and subsequently transport to the Los Angeles,  
18 California area approximately 21 kilograms of cocaine. Co-  
19 defendants Kaiser arranged for co-defendant Valle to  
20 package and load the cocaine into the load-cars. Co-  
21 defendant Kaiser then arranged for co-defendant Armenta, a  
22 load-car coordinator, to provide a load-car driver. Co-  
23 defendant Armenta tasked another person to drive the  
24 cocaine-laden vehicle. Defendant Kaiser tasked co-  
25 defendant Urquiza to act as the scout/look-out for the  
26 load-car on this occasion.

1 20. On or about October 11, 2006, **CUEVAS** in conjunction with  
2 the Cuevas Cell, arranged to import from Mexico and  
3 subsequently transport approximately 73 pounds of  
4 methamphetamine to the Los Angeles, California area. Co-  
5 defendant Castillo instructed **CUEVAS** to inform his  
6 subordinates that the methamphetamine was being imported  
7 and distributed on Castillo's behalf. Co-defendant Kaiser,  
8 under **CUEVAS'** direction, had co-defendant Armenta act as  
9 the load-car coordinator, informing him that two drivers  
10 would be needed. Co-defendant Kaiser also discussed which  
11 load drivers would be used with two other load-car  
12 coordinators, co-defendants Armenta and Alvarez. Co-  
13 defendant M. Garcia informed co-defendant Kaiser that he  
14 would be able to provide a load-car driver, but was  
15 ultimately unable to do so. Co-defendant Urquiza acted as  
16 a scout/look-out on this occasion. Co-defendant Ramos  
17 acted as one of two load-car drivers. The methamphetamine  
18 was imported from Mexico to the United States at the  
19 Calexico, West Port of Entry and driven in separate loads  
20 to a residence in Glendale, California. Throughout the  
21 course of this incident, Cuevas would report on the  
22 progress of the load-cars to co-defendant Castillo. The 73  
23 pounds of methamphetamine seized was tested to be 99% pure  
24 methamphetamine, aka "actual" methamphetamine.

25 21. On or about November 25, 2006, **CUEVAS** arranged for the  
26 transportation of \$91,140.00 in narcotics proceeds. **CUEVAS**  
27 arranged for co-defendant Elisa Valenzuela Pena to  
28 transport the money from Lake Elsinore, California to

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1 Callexico, California. Co-defendant Pena was to deliver the  
2 narcotics proceeds to **CUEVAS**. The vehicle containing the  
3 narcotics proceeds, in which Pena was a passenger, was  
4 stopped in Callexico, California and found to contain  
5 approximately \$91,140 in U.S. currency. The money was to  
6 be transported from the United States into Mexico and used  
7 to promote the Organization's drug trafficking activities.

8 22. On or about November 26, 2006, **CUEVAS** aided co-defendant  
9 Amezcua in transporting approximately 715 pounds of  
10 marijuana. Co-defendant Amezcua received permission from  
11 **Cuevas** to use a Cuevas Cell load-car driver, co-defendant  
12 Gaspar Puentes-Herrera, to transport the marijuana for co-  
13 defendant Amezcua. The vehicle containing the marijuana  
14 was stopped in El Centro, California, where agents  
15 discovered the marijuana. Amezcua, subsequent to the  
16 seizure, advised Cuevas to cease using his cell phone.

17 23. In furtherance of the aforementioned conspiracy **CUEVAS** and  
18 his subordinates within the Cuevas Cell used cellular  
19 telephones to communicate with each other during their  
20 trafficking activities. Throughout the investigation, in  
21 order to frustrate detection by law enforcement, **CUEVAS** and  
22 the members of the Cuevas Cell routinely discarded their  
23 cellular telephones in favor of newly purchased telephones.

24 24. **CUEVAS** and his subordinates within the Cuevas Cell would  
25 often use code words when discussing their trafficking  
26 activities over telephone lines. The codes included, but  
27 were not limited to, 1) using numbers to correspond to the  
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1 number of packages, 2) terms for controlled substances such  
2 as "chickens," "girls," "tubos," and "work," 3) terms for  
3 cash trafficking proceeds such as "check(s)," "bills,"  
4 receipts" and "paper." These terms were used in an effort  
5 to frustrate any law enforcement scrutiny.

6 Continuing Criminal Enterprise

7 25. Defendant Carlos **CUEVAS** Jr., as described in greater detail  
8 above, admits that he committed the offenses of  
9 distributing and importing controlled substances.

10 26. Defendant Carlos **CUEVAS** Jr., admits that during the period  
11 between February 2000 and February 2007, he committed the  
12 above-listed offenses as part of a series of at least three  
13 violations.

14 27. Defendant Carlos **CUEVAS** Jr., as described above, committed  
15 the aforementioned violations together and in connection  
16 with but not limited to, co-defendants: Victor Emilio  
17 Cazares-Gastellum, Jose Oscar Del Castillo-Gallardo, Sergio  
18 Kaiser-Chavez, Santos Fabian Rocha Salazar, Carlos Valle-  
19 Castorena, Miguel Angel Cardenas Garcia, Jose Ismael  
20 Urquiza, Luis Eduardo Alvarez, Gilbert Vasquez-Chavez,  
21 Octavio Amezcua, Rosario Garcia-Cardenas, Gaspar Puentes  
22 Herrera, Arturo Guardado-Chaidez, Karlo Humberto Armenta-  
23 Ocampo, Elisa Valenzuela Pena, Arturo Flores Medina, Tony  
24 Ramos, and Roberto Daniel Lopez.

25 28. Defendant Carlos **CUEVAS** Jr., organized, supervised and  
26 managed the aforementioned co-defendants (with the  
27 exception of co-defendants Cazares and Castillo-Gallardo).  
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1 29. Defendant Carlos **CUEVAS** Jr., during the course of the  
2 criminal enterprise, made a substantial income, more than  
3 \$1,000,000 from his drug trafficking activities.

4 **Conspiracy to Launder Monetary Instruments:**

5 30. Beginning on a date unknown and continuing up to and  
6 including February 28, 2007, Defendant Carlos **CUEVAS** Jr.  
7 knowingly agreed with co-defendant Victor Emilio Cazares-  
8 Gastellum, and with other members of the Cuevas Cell, to  
9 launder monetary instruments;

10 31. In furtherance of the conspiracy, Defendant Carlos **CUEVAS**  
11 Jr. arranged for the transportation and transfer of  
12 monetary instrument, to wit: bulk cash proceeds derived  
13 from the Cuevas Cell's and Cazares Organization's drug  
14 trafficking activities. These narcotic proceeds were  
15 picked up from various locations within the United States  
16 and taken to the Republic of Mexico.

17 32. In furtherance of the conspiracy, Defendant Carlos **CUEVAS**  
18 Jr. arranged for the aforementioned transfer with the  
19 intent to promote the carrying on of further narcotics  
20 offenses as alleged in indictment 07cr0449-WQH.

21 **Forfeiture:**

22 33. The following items represent cash proceeds of drug  
23 smuggling or were items purchased with proceeds from drug  
24 smuggling and were properties involved in the offense of  
25 money laundering:  
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- 1) \$61,880.00 in U.S. currency seized from CUEVAS' residence on January 20, 2007;
- 2) A Grey 2004 BMW 545I sedan, VIN# WBANB33574B107319, license 5MQL360, a White 2004 Chevrolet Tahoe, VIN# 1GNEC13Z24R262527, license 5TCF989, a Silver 2004 Infiniti QX56, VIN# 5N3AA08A14N812188, license (none) seized from CUEVAS' residence on January 20, 2007;
- 3) \$969,840 in U.S. currency seized from co-defendant's Urquiza's residence on January 20, 2007.

III  
PENALTIES

Defendant understands that Count 1 to which defendant is pleading guilty carries the following penalties:

- A. a maximum of life in prison, and a mandatory minimum 20 years;
- B. a maximum \$4,000,000.00 fine;
- C. a mandatory special assessment of \$100.00 per count;
- D. a term of supervised release of at least 5 years; and
- E. Forfeiture of all property constituting or derived from proceeds the defendant obtained directly or indirectly as the result of the offense of conviction, and forfeiture of all property used or intended to be used to commit or to facilitate the commission of the offense of conviction..

Defendant understands that as to Count 2 to which defendant is pleading guilty the following penalties apply:

- A. a maximum custodial sentence of 20 years with a mandatory minimum of three years;
- B. a maximum fine in an amount which is the greater of: \$500,000.00 or twice the value of the property involved in the transaction;

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1 C. a mandatory special assessment of \$100 per count;

2 D. a term of supervised release of not more than 3 years.  
3 Defendant understands that failure to comply with any of  
4 the conditions of supervised release may result in  
5 revocation of supervised release, requiring defendant to  
6 serve in prison all or part of the term of supervised;

7 E. forfeiture of all property, real and personal, involved in  
8 the offense and all property traceable to such property.

9 Defendant understands that failure to comply with any of the  
10 conditions of supervised release may result in revocation of  
11 supervised release, requiring defendant to serve in prison all or part  
12 of the term of supervised release.

13 IV

14 DEFENDANT'S WAIVER OF TRIAL RIGHTS

15 Defendant understands that this guilty plea waives the right  
16 to:

17 A. continue to plead not guilty and require the Government to  
18 prove the elements of the crime beyond a reasonable doubt;

19 B. a speedy and public trial by jury;

20 C. the assistance of counsel at all stages of trial;

21 D. confront and cross-examine adverse witnesses;

22 E. present evidence and to have witnesses testify on behalf of  
23 defendant; and

24 F. not testify or have any adverse inferences drawn from the  
25 failure to testify.

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V

WAIVER OF EIGHTH AMENDMENT RIGHTS AS TO THE FORFEITURE

Defendant knowingly and voluntarily waives any rights and defenses defendant may have under the Excessive Fines Clause of the Eighth Amendment to the United States Constitution to the forfeiture of property in this proceeding and any related civil and administrative proceedings.

VI

DEFENDANT ACKNOWLEDGES NO PRETRIAL RIGHT TO BE PROVIDED WITH IMPEACHMENT AND AFFIRMATIVE DEFENSE INFORMATION

The Government represents that any information establishing the factual innocence of defendant known to the undersigned prosecutor in this case has been turned over to defendant. The Government will continue to provide such information establishing the factual innocence of defendant.

Defendant understands that if this case proceeded to trial, the Government would be required to provide impeachment information relating to any informants or other witnesses. In addition, if defendant raised an affirmative defense, the Government would be required to provide information in its possession that supports such a defense. Defendant acknowledges, however, that by pleading guilty defendant will not be provided this information, if any, and Defendant also waives the right to this information. Finally, defendant agrees not to attempt to withdraw the guilty plea or to file a collateral attack based on the existence of this information.

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VII

DEFENDANT'S REPRESENTATION THAT GUILTY  
PLEA IS KNOWING AND VOLUNTARY

Defendant represents that:

- A. Defendant has had a full opportunity to discuss all the facts and circumstances of this case with defense counsel, and has a clear understanding of the charges and the consequences of this plea;
- B. No one has made any promises or offered any rewards in return for this guilty plea, other than those contained in this plea agreement or otherwise disclosed to the court;
- C. No one has threatened defendant or defendant's family to induce this guilty plea; and
- D. Defendant is pleading guilty because in truth and in fact defendant is guilty and for no other reason.

VIII

AGREEMENT LIMITED TO U.S. ATTORNEY'S OFFICE  
SOUTHERN DISTRICT OF CALIFORNIA

This plea agreement is limited to the United States Attorney's Office for the Southern District of California, and cannot bind any other federal, state or local prosecuting, administrative, or regulatory authorities, although the Government will bring this plea agreement to the attention of other authorities if requested by defendant.

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IX

APPLICABILITY OF SENTENCING GUIDELINES

Defendant understands the sentence imposed will be based on the factors set forth in 18 U.S.C. § 3553(a). Defendant understands further that in imposing the sentence, the sentencing judge must consult the United States Sentencing Guidelines (Guidelines) and take them into account. Defendant has discussed the Guidelines with defense counsel and understands that the Guidelines are only advisory, not mandatory, and the court may impose a sentence more severe or less severe than otherwise applicable under the Guidelines, up to the maximum in the statute of conviction. Defendant understands further that the sentence cannot be determined until a presentence report has been prepared by the U.S. Probation Office and defense counsel and the Government have had an opportunity to review and challenge the presentence report. Nothing in this plea agreement shall be construed as limiting the Government's duty to provide complete and accurate facts to the district court and the U.S. Probation Office.

X

SENTENCE IS WITHIN SOLE DISCRETION OF JUDGE

This plea agreement is made pursuant to Federal Rule of Criminal Procedure 11(c)(1)(B). Defendant understands that the sentence is within the sole discretion of the sentencing judge. The Government has not made and will not make any representation as to what sentence defendant will receive. Defendant understands that the sentencing judge may impose the maximum sentence provided by statute, and is also aware that any estimate of the probable sentence by defense counsel is a prediction, not a promise, and is not binding on the Court.

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Likewise, the recommendation made by the Government is not binding on the Court, and it is uncertain at this time what defendant's sentence will be. Defendant also has been advised and understands that if the sentencing judge does not follow any of the parties' sentencing recommendations, defendant nevertheless has no right to withdraw the plea.

## XI

### PARTIES' SENTENCING RECOMMENDATIONS

#### A. SENTENCING GUIDELINE CALCULATIONS

Although the parties understand that the Guidelines are only advisory and just one of the factors the court will consider under 18 U.S.C. § 3553(a) in imposing a sentence the parties will jointly recommend the following Base Offense Level, Specific Offense Characteristics, Adjustments and Departures (if applicable) under the Guidelines:

Conversion of Controlled Substances:

Ct.	Date of Seizure	Drug	Quantity	Marijuana Conversion Rate	Marijuana Equivalent
	2-3/2000	Marijuana	281 Kgs.	1 g = 200 g MJ	56,200 Kgs
4	3/02/06	Cocaine	207 Kgs.	1 g = 200 g MJ	41,400 Kgs
5	4/28/06	Cocaine	31 Kgs.	1 g = 200 g MJ	6,200 Kgs
6	4/28/06	Cocaine	31 Kgs.	1 g = 200 g MJ	6,200 Kgs
7	5/30/06	Marijuana	74 Kgs.	NA	74 Kgs
8	6/07/06	Cocaine	74 Kgs.	1 g = 200 g MJ	14,800 Kgs
9	7/08/06	Marijuana	64 Kgs.	NA	64 Kgs
10	8/08/06	Cocaine	51 Kgs.	1 g = 200 g MJ	10,200 Kgs
11	8/28/06	Cocaine	45 Kgs.	1 g = 200 g MJ	9,000 Kgs

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12	9/15/06	Marijuana	38 Kgs.	NA	38 Kgs
13	9/15/06	Marijuana	38 Kgs.	NA	38 Kgs
14	10/06/06	Cocaine	21 Kgs.	1 g = 200 g MJ	4,200 Kgs
15	10/10/06	Meth. (Ice/Actual)	33 Kgs.	1 g = 20 Kg MJ	660,000 Kgs
16	11/26/06	Marijuana	325 Kgs.	NA	325 Kgs
				Total Kgs MJ	808,739 Kgs

1. Base Offense Level [§ 2D1.1] 38  
[828,739 kgs. of marijuana 2D1.1(c)(1)]
2. Continuing Criminal Enterprise [§ 2D1.5] +4  
ADJUSTED OFFENSE LEVEL (subtotal) 42
4. Career Offender [4B1.1(b)(A)] 42\*
5. Acceptance of Responsibility [§ 3E1.1] -3
- Total Offense Level 39**

\*The offense level under § 4B1.1(b) is lower than the otherwise applicable offense level, which therefore results in no additional increase. However, with regards to Criminal History Category, the defendant **may** be placed in Criminal History Category VI pursuant to §4B1.1(a). The Government makes no representation as to what the Defendant's Criminal History Category may be as a result of his prior convictions. Further, should the Court find that the defendant is a career offender, thereby placing him in a Criminal History Category VI, defendant agrees that such a finding shall not be a basis by which he may withdraw his plea agreement.

#### B. ACCEPTANCE OF RESPONSIBILITY

Notwithstanding paragraph A.6 above, the Government will not recommend any adjustment for Acceptance of Responsibility if defendant:

1. Fails to admit a complete factual basis for the plea at the time it is entered, or

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2. Denies involvement in the offense, gives conflicting statements about that involvement, or is untruthful with the Court or probation officer, or
3. Fails to appear in court, or
4. Engages in additional criminal conduct, or
5. Attempts to withdraw the plea, or
6. Refuses to abide by any lawful court order;
7. Contests the forfeiture(s) or assists any third party in contesting the forfeiture of properties seized in connection with this case.

C. NO OTHER ADJUSTMENTS

The parties agree not to recommend any upward or downward adjustments other than those specifically agreed to in this plea agreement.

D. NO AGREEMENT AS TO CRIMINAL HISTORY CATEGORY

The defendant acknowledges that there is no agreement regarding his criminal history.

E. NO OTHER DEPARTURES

The parties agree not to recommend any upward or downward departures other than those specifically agreed to in this plea agreement.

F. "FACTUAL BASIS" AND "RELEVANT CONDUCT" INFORMATION

The parties agree that the facts as outlined in the "factual basis" paragraphs of this agreement are true, and may be considered as "relevant conduct" under USSG § 1B1.3, and as the nature and circumstances of the offense under 18 U.S.C. § 3553(a)(1).

Def. Initials \_\_\_\_\_

1           G.    PARTIES' RECOMMENDATIONS REGARDING CUSTODY

2           The parties agree that the Government will recommend that  
3 defendant be sentenced to the **low end** of the advisory guideline range  
4 as calculated by the Government pursuant to this agreement. However,  
5 if the Court adopts an offense level or downward adjustment or  
6 departure below the Government's recommendations in this plea  
7 agreement, the Government will recommend a sentence as near as  
8 possible to what the sentence would have been if the Government's  
9 recommendations had been followed.

10           H.    FORFEITURE.

11           Defendant agrees to forfeit all right, title, and interest in  
12 the following properties:

- 13                   1)   \$61,880.00 in U.S. currency seized from CUEVAS'  
14                   residence on January 20, 2007;  
15                   2)   A Grey 2004 BMW 545I sedan, VIN# WBANB33574B107319,  
16                   license 5MQL360, a White 2004 Chevrolet Tahoe, VIN#  
17                   1GNEC13Z24R262527, license 5TCF989, a Silver 2004  
18                   Infiniti QX56, VIN# 5N3AA08A14N812188, license (none)  
19                   seized from CUEVAS' residence on January 20, 2007;  
20                   3)   \$969,840 in U.S. currency seized from co-defendant's  
21                   Urquiza's residence on January 20, 2007;

22                   which represent proceeds, or proceeds of proceeds, derived directly  
23                   and indirectly from the defendant's drug trafficking activities that  
24                   occurred between a date unknown and continuing up to and including  
25                   February 28, 2007, and represents properties involved in the offense  
26                   of money laundering. Defendant further warrants and represents as a  
27  
28

Def. Initials \_\_\_\_\_



1 material fact that no third party or other person has any interest or  
2 claim in or to the aforementioned items to be forfeited to the United  
3 States. In addition to the forgoing, Defendant consents and agrees to  
4 all administrative forfeitures of properties seized in connection with  
5 this case.

6       **I. SPECIAL ASSESSMENT**

7       The parties will jointly recommend that defendant pay a special  
8 assessment in the amount of \$100.00 per count to be paid forthwith at  
9 time of sentencing. The special assessment shall be paid through the  
10 office of the Clerk of the District Court by bank or cashier's check  
11 or money order made payable to the "Clerk, United States District  
12 Court."

13  
14                               **XII**

15       **DEFENDANT WAIVES APPEAL AND COLLATERAL ATTACK**

16       In exchange for the Government's concessions in this plea  
17 agreement, defendant waives, to the full extent of the law, any right  
18 to appeal or to collaterally attack the conviction and sentence,  
19 including any restitution order, unless the court imposes a custodial  
20 sentence greater than the high end of the guideline range (or  
21 statutory mandatory minimum term, if applicable) recommended by the  
22 Government pursuant to this plea agreement at the time of sentencing.  
23 If the custodial sentence is greater than the high end of that range,  
24 defendant may appeal, but the Government will be free to support on  
25 appeal the sentence actually imposed. If defendant believes the  
26 Government's recommendation is not in accord with this plea agreement,  
27 defendant will object at the time of sentencing; otherwise the  
28 objection will be deemed waived.

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1 XIII

2 CRIMES AFTER ARREST OR BREACH OF THE AGREEMENT WILL  
3 PERMIT THE GOVERNMENT TO RECOMMEND A HIGHER SENTENCE OR  
4 SET ASIDE THE PLEA

5 This plea agreement is based on the understanding that, prior to  
6 defendant's sentencing in this case, defendant has not committed or  
7 been arrested for any offense not known to the Government prior to  
8 defendant's sentencing. This plea agreement is further based on the  
9 understanding that defendant has committed no criminal conduct since  
10 defendant's arrest on the present charges, and that defendant will  
11 commit no additional criminal conduct before sentencing. If defendant  
12 has engaged in or engages in additional criminal conduct during this  
13 period, or breaches any of the terms of any agreement with the  
14 Government, the Government will not be bound by the recommendations  
15 in this plea agreement, and may recommend any lawful sentence. In  
16 addition, at its option, the Government may move to set aside the  
17 plea.

18 XIV

19 ENTIRE AGREEMENT

20 This plea agreement embodies the entire plea agreement between  
21 the parties and supersedes any other plea agreement, written or oral.

22 XV

23 MODIFICATION OF AGREEMENT MUST BE IN WRITING

24 No modification of this plea agreement shall be effective unless  
25 in writing signed by all parties.  
26

27 //

28 //

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XVI

DEFENDANT AND COUNSEL FULLY UNDERSTAND AGREEMENT

By signing this plea agreement, defendant certifies that defendant has read it (or that it has been read to defendant in defendant's native language). Defendant has discussed the terms of this plea agreement with defense counsel and fully understands its meaning and effect.

XVII

DEFENDANT SATISFIED WITH COUNSEL

Defendant has consulted with counsel and is satisfied with counsel's representation.

KAREN P. HEWITT  
United States Attorney

\_\_\_\_\_  
DATED

\_\_\_\_\_  
MICHAEL F. KAPLAN  
Assistant U.S. Attorney

\_\_\_\_\_  
DATED

\_\_\_\_\_  
KURT D. HERMANSEN  
Attorney for Defendant

IN ADDITION TO THE FOREGOING PROVISIONS TO WHICH I AGREE, I SWEAR UNDER PENALTY OF PERJURY THAT THE FACTS IN THE "FACTUAL BASIS" PARAGRAPH ABOVE ARE TRUE.

\_\_\_\_\_  
DATED

\_\_\_\_\_  
CARLOS CUEVAS JR.  
Defendant

Def. Initials \_\_\_\_\_